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# DIRECTV.

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Attention: Group Art Unit: 2617

Fax: (571) 273-8300 Examiner: James R. Sheleheda

UNITED STATES PATENT AND TRADEMARK OFFICE

Phone: (571) 272-7357

Date: March 6, 2006 Pages: Cover + 1 + 2 + 15 = 19

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genn S. Grunebach, Reg. No. 33,179

March 6, 2006 (Date of Signature)

(Printed Name of Depositor)

Re:

Serial No. 09/844,919

Filing Date: April 26, 2001

Attorney Docket No. PD-201029A

#### Please find attached:

- > TRANSMITTAL FORM PTO/SB/21 (1 page)
- > FEE TRANSMITTAL FORM PTO/SB/17 (1 page in duplicate)
- > BRIEF ON APPEAL IN RESPONSE TO THE NOTICE OF APPEAL FILED JANUARY 19. 2006 (15 pages)

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PTO/SB/21 (09-04)
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U.S. Patent and Tredemark Office; U.S. DEPARTMENT OF COMMERCE are required to respond to a collection of information unless it displays a valid OME control number. Under the Paperwork Reduction Act of 1995, no persons Application Number 09/844.919 Filing Date TRANSMITTAL April 28, 2001 First Named Inventor Erln H. Sibley **FORM** Art Unit Examiner Name SHELEHEDA, James R. (to be used for all correspondence after initial filing) Attorney Docket Number PO-201029A Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC ✓ Fee Transmittal Form Drawing(s) Appeal Communication to Board Licensing-related Papers of Appeals and Interferences Fee Atlached Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) Pelition Amendment/Reply Petition to Convert to a Proprietary information Provisional Application After Final Power of Attorney, Revocation Status Letter Change of Correspondence Address Affidavits/declaration(s) Other Enclosure(s) (please identify Terminal Disclaimer Extension of Time Request Request for Refund Express Abandonment Request CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name The Diverty Group, Inc. Signature Printed name Georgani S. Grunebach Rea. No 33,179 Dale March 6, 2008 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facelmille transmitted to the USPTO or deposited with the United States Postal Service with r envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on cufficient postage as first class mail in a the date shown below: Signature March 6, 2006 Georgann/S. Grunebach, Reg. No. 33,179 Typed or printed name

This collection of Information is required by 37 CFR 1.5. The Information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Pelarthent of Commerce, P.O. Box 1450, Alexandris, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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			First Named Inventor E		Erln H. Sibley					
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Name (Print/Type) Geergann S. Grunebach

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# MAR 0 6 2005

(Signature) March 6, 2006 (Date of Signature)

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(date of facsimile transmission)

Georgaph/S. Grunebach (Name of Applicant, Assignee or Registered Representative)

Reg. No. 33,179

Customer Number 020991

Patent PD-201029A

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of

Erin H. Sibley, et al.

Group Art Unit:

2617

Serial No.

09/844,919

Examiner:

Sheleheda, James R.

Filed:

04/26/2001

For:

COMMUNICATION SYSTEM FOR REBROADCASTING ELECTRONIC

CONTENT WITHIN LOCAL AREA NETWORK

# **BRIEF ON APPEAL**

Mail Stop Appeal Brief - Patents Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Sir:

The following Appeal Brief is submitted in response to the Notice of Appeal filed January 19, 2006.

03/08/2006 WABDELR1 00000064 500383 09844919

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#### I. Real Party in Interest

The real party in interest in this matter is The DIRECTV Group, Inc., of El Segundo, California which is 34 percent owned by Fox Entertainment Group, which is approximately 82 percent owned by The News Corporation, Limited.

#### II. Related Appeals and Interferences

There are no other known appeals or interferences which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

#### III. Status of the Claims

Claims 1-22 stand rejected in the Final Office Action.

#### IV. Status of Amendments

There have been no amendments filed subsequent to the Advisory Action mailed December 29, 2005.

#### V. Summary of Claimed Subject Matter

The present invention is best illustrated in Figures 12 and 13, which correspond to paragraphs 58-69 of the present application.

Claim 1 is directed to a system 10 of distributing electronic content that includes a network operations center 214 forming a composite signal having digital electronic content during a vertical blanking interval of a primary channel. The network operations center is described in the second half of paragraph 58. Claim 1 also includes a content delivery system 210 that receives the composite broadcast signal from the network operations center 214 and broadcasts the composite broadcast signal. The content system is described in the first half of paragraph 58. A base station 220 described in paragraph 60 receives the composite broadcast signal and forms a wireless local area network 228. The base station 220 rebroadcasts at least a portion of the composite signal as a

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rebroadcast signal using the wireless local network 228. The local wireless area network is described in the first sentence of paragraph 61.

A user appliance 232, which is described in the second sentence of paragraph 61, is positioned within the local area network 228 and receives the rebroadcast signal. Examples of user devices are described in Figures 6 and 7.

Claim 2 depends from Claim 1 and recites a television coupled to the base station. The base station receives at least a portion of the composite broadcast signal. A television 224 is illustrated in Figure 12 and is described in line 6 of paragraph 80.

Claim 3 is dependent upon Claim 2 and recites that the base station couples the primary channel to the television. This is described in the second to the last sentence of paragraph 60.

Claim 4 recites that the base station forms the rebroadcast signal from the digital electronic content. This is described in paragraph 61.

Claim 5 recites that the electronic content comprises digital audio signals. A description of electronic content is set forth in paragraph 28.

Claim 6 recites that the electronic content comprises video. This is also described in paragraph 28.

Claim 7 recites that the content delivery system comprises a high altitude device.

One example of a high altitude device is set forth in paragraph 57 as satellite 218.

Claim 8 specifically recites that the high altitude device comprises a satellite 218. As mentioned above, this is set forth in paragraph 57.

Claim 9 recites that the high altitude device comprises a stratospheric platform. A stratospheric platform is set forth in line 4 of paragraph 32.

Claim 10 recites that the base station comprises an integrated receiver decoder. The receiver is described in various places including that of paragraph 41.

Claim 11 recites that the digital electronic content is compressed. In Figure 5 box 112 describes an MPEG4 compression software. Compression is described in line 8 of paragraph 46.

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Claim 12 recites that the content delivery system comprises a cable network. This is described in line 4 of paragraph 58.

Claim 13 recites that the content delivery system comprises a fiber optic network. This is also described in line 4 of paragraph 58.

Claim 14 is an independent method claim that is directed to a method of distributing electronic content. Claim 14 recites the step of uplinking a primary channel having digital electronic content during a vertical blanking interval of the primary channel signal to a high altitude device. This is described in the sentence of paragraph 68. Claim 14 also recites the step of receiving the primary channel signal having a digital electronic content during a vertical blanking interval from the high altitude device. This is described in the second sentence of paragraph 68. Claim 16 also recites grabbing frames of the primary channel signal to recover the electronic content. Frame grabbing software and the description thereof is set forth in Figure 5, box 126. The description is set forth in lines 17-25 of paragraph 47.

Claim 14 also recites over-the-air broadcasting the digital electronic content through a wireless local area network. This is illustrated in Figure 12 as reference numeral 228. This is set forth in the first sentence of paragraph 61.

Claim 14 also recites receiving the electronic content packages through a plurality of user appliances. User appliances are illustrated in Figure 12 as reference numeral 232. The description of this is set forth in paragraph 61.

Claim 15 is a dependent claim that recites that receiving the over-the-air broadcasting comprises over-the-air broadcasting from a base station. A base station 220 is illustrated in Figure 12 and is described in paragraph 60.

Claim 16 recites that the over-the-air broadcasting from a base station is within a building. The use of a building is described in line 5 of paragraph 62.

Claim 17 recites the further step of coupling the primary channel to a television 224. The television 224 is illustrated in Figure 12 and the reception of the primary channel at the television is set forth in the second to last sentence of paragraph 60.

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Claim 18 is an independent claim directed to a method of distributing electronic content. Claim 18 recites digitally compressing the electronic content into a digital video stream. The compression software is described in line 5 of paragraph 13.

Claim 18 also recites broadcasting a television signal having a vertical blanking interval. The vertical blanking interval bridge hardware 246 performs this function.

Claim 18 also recites broadcasting the digital video stream within the vertical blanking interval. The vertical blanking interval software that is used to superimpose the compressed digital electronic content is described in line 9 of paragraph 63.

Claim 18 also recites receiving the digital video stream using frame grabbing software. Frame grabbing software is described in reference numeral 256 on paragraph 13. The description for this is set forth in lines 3-4 of paragraph 66.

Claim 18 also recites rebroadcasting the digital video stream using a wireless local area network. The wireless local area network is described in conjunction with the wireless local area network transmitter 226 described in lines 3-8 of paragraph 67.

Claim 19 is dependent upon Claim 18 and recites the steps of coupling the television signal to television 224. The television is illustrated in Figures 12 and 13 and is described above.

Claim 20 depends from Claim 18 and recites the further step of receiving the electronic content in a user appliance. Various user devices 232 are set forth as mentioned above.

Claim 21 depends from Claim 20 and recites that the step of receiving comprises the step of digitally compressing the digital video stream and displaying the digital video stream. Decompression software and video display and audio output are illustrated as reference numerals 258 and 260, respectively. The description of this is set forth in paragraphs 66 and 67, respectively.

Claim 22 depends from Claim 20 and recites that the step of receiving comprises grabbing a vertical blanking interval frame. Vertical blanking interval frame software is

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set forth as reference numeral 256 of paragraph 13. This is described in lines 1-5 of paragraph 66.

# VI. Grounds of Rejection to be Reviewed on Appeal

The following issues are presented in this appeal:

Whether Claims 1-8, 10, 12, and 14-17 are anticipated under 35 U.S.C. §102(b) under *Allport* (6,097,441).

Whether Claims 9, 11, 13, and 18-22 are obvious under 35 U.S.C. §103(a) over *Allport*.

### VII. Argument

The Rejection of Claims 1-8, 4, 10, 12, and 14-17 over Allport

#### Claim 1

The Examiner points to base station 75 receiving the composite broadcast signal and grabbing frames from the composite broadcast signal. Appellants agree that some information is transmitted in a vertical blanking interval. However, the Examiner further states that a wireless local area network is set forth in the *Allport* reference. The Examiner points to wireless networking with remote unit 10 and Col. 10, lines 16-54. The Examiner points to Col. 12, lines 11-44, for the base station rebroadcasting at least a portion of the composite signals as a rebroadcast signal using the wireless local network. The Examiner then states that a plurality of user appliances is set forth with respect to the remote control 10 and Col. 5, lines 59-62.

First, it should be noted that Appellants performed a word search on the Allport reference. The word network shows up only three times in the document. The first time is in the references cited, the second time is in Col. 3, line 29, and the third time is in Col. 4, line 39. The Col. 3 reference is describing a data integration system and referring to a computer network. Col. 4 simply refers to a TV network. Appellants can find no teaching or suggestion in the Allport reference for a wireless local area network. Even

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though a direct communication link, albeit wireless, may be formed between the remote control 10 and the base station 75, no teaching or suggestion is provided for forming a wireless local area network. A wireless local area network is capable of being used with multiple user appliances. In a previous Office Action Claim 1 was modified to highlight this fact by reciting a plurality of user appliances rather than just one. Appellants can find no teaching that the base station forms a wireless local area network and rebroadcasts a portion of the composite signal as a rebroadcast signal using the wireless local area network. Again, the plurality of user appliances is positioned within the local area network and receives the rebroadcast signal. Although the remote control does receive the signal from the base station 75 in the Allport reference, no teaching or suggestion is provided for receiving the rebroadcast signal in the wireless local area network.

In the Advisory Action the Examiner states, "Allport discloses a local area wireless connection between a base station and a remote control." The Examiner points to Col. 10, lines 15-65. The Examiner then points to IEEE 100, Seventh Edition, which states, "A network is any set of devices or subsystems connected by links joining (directly or indirectly) a set of terminal nodes." Then the Examiner goes on to state, "Given the broadcast reasonable interpretation, the wiresless internection(sic) between the base station and remote of Allport clearly define a network." The Examiner has not provided a copy of this reference. However, the Examiner is merely referring to a network rather than a wireless local area network. In fact, Claim 1 specifically recites a plurality of user appliances positioned within the local area network. Thus, it is clear from Claim 1 that the wireless local area network includes a plurality of user appliances and a base station. The Allport reference clearly is limited to a remote control that directly communicates with the base station unit 75 and not more than one user device.

Therefore, because each and every element of Claim 1 is not found in the *Allport* reference. Appellants respectfully request the Board to reverse the Examiner's rejection of Claim 1.

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#### Claims 2-8, 10, and 12

Claims 2-8, 10, and 12 stand or fall together with Claim 1.

#### Claim 14

Claim 14 is another independent claim that describes a method for distributing electronic content. Claim 14 specifically recites "over-the-air broadcasting the digital electronic content through a wireless local area network and receiving the electronic content packages through a plurality of user appliances." Again, no teaching or suggestion is set forth in the *Allport* reference for a wireless local area network. Therefore, Appellants respectfully submit that Claim 14 is allowable for the same reasons set forth with respect to Claim 1 and the wireless local area network and respectfully request the Board to reverse the Examiner's position with respect to Claim 14.

#### **Claims 15-17**

Claims 15-17 stand or fall together with Claim 14.

# The Rejection of Claims 9, 11, 13, and 18-22 under Allport

#### Claim 9

Claim 9 recites that the high altitude device comprises a stratospheric platform. In the Final Office Action, the Examiner takes official notice that it is well known in the art to utilize a stratospheric platform. Appellants admit stratospheric platforms are in the art but the combination of a stratospheric platform and a base station that forms a wireless local area network with user appliances is not taught or set forth in the *Allport* reference. Therefore, Appellants respectfully request the Board to reverse the Examiner's position with respect to Claim 9 as well.

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#### Claim 11

Claim 11 recites that the digital electronic content is compressed. Again, the Examiner takes official notice that compression is known. Appellants acknowledge that compression is known, however, the combination of compression used within a local wireless area network from a base station is not taught or suggested in the *Allport* reference. Therefore, Appellants respectfully request the Board to reverse the Examiner's position with respect to Claim 11.

#### Claim 13

Claim 13 recites that the delivery system comprises a fiber optic network. Again, the Examiner takes official notice that fiber optic networks are known. Appellants respectfully submit that a fiber optic network in combination with a base station that forms a wireless local area network is not taught or suggested in the *Allport* reference. Therefore, Appellants respectfully request the Board to reverse the Examiner's position with respect to Claim 13 as well.

#### Claim 18

Claim 18 is a method claim that includes the step of rebroadcasting a digital video stream using a wireless local area network. As mentioned above, Appellants respectfully believe that a wireless local area network is not taught or suggested in the Allport reference. Likewise, Claim 18 also recites digitally compressing the electronic content into a digital video stream. It is the compressed digital video stream that is inserted into the vertical blanking interval. As mentioned above with respect to Claim 11, the Examiner agrees that compressed electronic content is not taught in the Allport reference. Therefore, at least two of the elements of Claim 18 are not taught or suggested in the Allport reference. Namely, digitally compressing the electronic content into a digital video stream that is eventually inserted into the vertical blanking interval is not taught in addition to rebroadcasting the digital video stream using a wireless local area network.

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Appellants therefore respectfully request the Board to reverse the Examiner's position with respect to Claim 18 as well.

#### Claims 19 and 20

Claims 19 and 20 stand or fall together with Claim 18.

#### Claim 21

Claim 21 recites that receiving comprises digitally decompressing the digital video stream and displaying the digital video stream. Appellants admit that displaying the video stream is taught in the *Allport* reference. With respect to decompressing the digital video stream, the Examiner states that it is inherently required to be decompressed for use. Appellants respectfully submit that digitally compressing the digital video stream is not taught or suggested in the *Allport* reference. Therefore, digitally decompressing the signal is also not taught or suggested. Appellants therefore respectfully request the Board to reverse the Examiner's position with respect to Claim 21 as well.

#### Claim 22

Claim 22 stands or falls together with Claim 18.

## VIII. Claims Appendix

A copy of each of the claims involved in this appeal, namely Claims 1-22.

#### IX. Evidence Appendix

None.

#### X. Related Proceedings Appendix

None.

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#### XI. Conclusion

For the foregoing reasons, Appellants respectfully request that the Board direct the Examiner in charge of this examination to withdraw the rejections.

Please charge any fees required in the filing of this appeal to deposit account 50-0383. Fee Transmittal Form PTO/SB/17 is submitted in duplicate.

Respectfully submitted,

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#### CLAIMS APPENDIX

- 1. A system of distributing electronic content comprising:
- a network operations center forming a composite broadcast signal having digital electronic content during a vertical blanking interval of a primary channel signal;
- a content delivery system receiving said composite broadcast signal from said network operations center and broadcasting said composite broadcast signal;
- a base station receiving said composite broadcast signal grabbing frames from the composite broadcast signal and forming a wireless local area network, said base station rebroadcasting at least a portion of said composite signal as a rebroadcast signal using said wireless local area network; and
- a plurality of user appliances positioned within said local area network and receiving said rebroadcast signal.
- 2. A system as recited in claim 1 further comprising a television coupled to said base station, said television receiving at least a portion of said composite broadcast signal.
- 3. A system as recited in claim 2 wherein said base station couples said primary channel to said television.
- 4. A system as recited in claim 1 wherein said base station forms said rebroadcast signal from said digital electronic content.
- 5. A system as recited in claim 1 wherein said electronic content comprises digital audio signals.
- 6. A system as recited in claim 1 wherein said electronic content comprises video.

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- 7. A system as recited in claim 1 wherein said content delivery system comprises high altitude device.
- 8. A system as recited in claim 1 wherein said high altitude device comprises a satellite.
- 9. A system as recited in claim 1 wherein said high altitude device comprises a stratospheric platform.
- 10. A system as recited in claim 1 wherein said base station comprises an integrated receiver decoder.
- 11. A system as recited in claim 1 wherein said digital electronic content is compressed.
- 12. A system as recited in claim 1 wherein said content delivery system comprises a cable network.
- 13. A system as recited in claim 1 wherein said content delivery system comprises a fiber optic network.
- 14. A method of distributing electronic content comprising the steps of: uplinking a primary channel signal having a digital electronic content during a vertical blanking interval of the primary channel signal to a high altitude device;

receiving the primary channel signal having a digital electronic content during a vertical blanking interval from the high altitude device;

grabbing frames of the primary channel signal to recover the electronic content;

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over-the-air broadcasting the digital electronic content through a wireless local area network; and

receiving the electronic content packages through a plurality of user appliances.

- 15. A method as recited in claim 14 wherein the step of receiving overthe-air broadcasting comprises over-the-air broadcasting from a base station.
- 16. A method as recited in claim 14 wherein the step of receiving overthe-air broadcasting comprises over-the-air broadcasting from a base station within a building.
- 17. A method as recited in claim 14 further comprising the step of coupling the primary channel to a television.
  - 18. A method of distributing electronic content comprising the steps of: digitally compressing the electronic content into a digital video stream; broadcasting a television signal having a vertical blanking interval; broadcasting the digital video stream within the vertical blanking interval; receiving the digital video stream using frame grabbing software; rebroadcasting the digital video stream using a wireless local area network.
- 19. A method as recited in claim 18 further comprising the steps of coupling the television signal to a television.
- 20. A method as recited in claim 18 further comprising the steps of receiving the electronic content in user appliance.

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- 21. A method as recited in claim 20 wherein the step of receiving comprises the steps of digitally decompressing the digital video stream, and displaying the video stream.
- 22. A method as recited in claim 20 wherein the step of receiving comprises grabbing a vertical blanking interval frame.